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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,330	10/22/2003	Istvan Boldogh	265.00390101	1384
26813	7590	12/20/2005	EXAMINER	
MUETING, RAASCH & GEBHARDT, P.A. P.O. BOX 581415 MINNEAPOLIS, MN 55458			KAM, CHIH MIN	
			ART UNIT	PAPER NUMBER
			1656	

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/691,330	Applicant(s) BOLDOGH ET AL.	
	Examiner Chih-Min Kam	Art Unit 1656	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. <u>20051213</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

1. The finality of previous Office Action dated July 18, 2005 is withdrawn due to a new ground of rejection.

Status of the Claims

2. Claims 1-15 are pending.

Applicants' amendment filed November 29, 2005 is acknowledged. Applicants' response has been fully considered. Claims 1, 7 and 12 have been amended, and claims 16-23 have been cancelled. Therefore, claims 1-15 are examined.

Withdrawn Informalities

3. The previous objection to the specification regarding continuation data is withdrawn in view of applicants' submission of supplemental application data sheet and applicant's response at pages 6-7 in the amendment filed November 29, 2005.

Withdrawn Claim Objections

4. The previous objection to claim 6 is withdrawn in view of applicants' amendment to the claim in the amendment filed November 29, 2005.

Withdrawn Claim Rejections - 35 USC § 112

5. The previous rejection of claims 1-5 and 7-15, under 35 U.S.C. 112, first paragraph, regarding scope of the claims, is withdrawn in view of applicants' amendment to the claim, and applicants' response at pages 7-8 in the amendment filed November 29, 2005.
6. The previous rejection of claims 1-5 and 7-15, under 35 U.S.C. 112, first paragraph, regarding written description, is withdrawn in view of applicants' amendment to the claim, and applicants' response at page 8 in the amendment filed November 29, 2005.

Informalities

The disclosure is objected to because of the following informalities:

7. The specification cites an amino acid sequence at page 17, line 30, however, there is no sequence identifier, "SEQ ID NO:" provided. Applicants must comply with the requirements of the sequence rules (37 CFR 1.821-1.825) and provide a paper copy of Sequence Listing and a computer readable form (CRF) containing all the sequences.
8. The specification cites "Table 1A" at page 25, line 16, "Table 1B" at page 25, line 21, and "Table 1C" at page 26, line 17, however, there is only "Table 1" at page 27. In the Table 1, there are parts A, B and C. Appropriate clarification is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 7 and 9-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 7 and 9-11 are indefinite because claim 7 has the same scope as claim 1, claim 9 has the same scope as claim 2, claim 10 has the same scope as claim 3, and claim 11 has the same scope as claim 4.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

10. Claims 1-15 are rejected under 35 U.S.C. 102(e) as anticipated by Stanton *et al.* (U.S. Patent 6,903,068, filing date: August 17, 2000).

Stanton *et al.* teach colostrinin inhibits the toxicity of β -amyloid in neural derived SH-SY5Y cells, since this toxicity is the result of the apoptotic activity of β -amyloid, which indicates colostrinin is a potent inhibitor of apoptosis in neural-derived cells (Table 1, part B; Figs. 6B, 6D and 6E); colostrinin at 1.0 μ g/ml added on day one or for 30 min on day five of the experiment almost completely blocked the cytotoxicity of cells treated with 20 μ M of retinoic acid (Table 1, part C; column 16, line 35-column 17, line 28; claims 1-11); P12 cells were treated with colostrinin (1.0 μ g/ml) for 15 min and 4HNE (4-hydroxy-trans-2-nonenal) were added, 24 hours later, cell were harvested and stained with annexin V-PE and 7-AAD (Example 7, Figs. 7 and 8), which indicates inhibition of 4HNE (4-hydroxy-trans-2-nonenal)-induced apoptosis by colostrinin; and colostrinin shows inhibitory effect on UV-B induced apoptosis of P12 cells, where colostrinin treated cells also showed a significantly reduced DNA damage (Example 8; Fig. 9; claims 12-15).

Conclusions

11. No claims are allowed.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chih-Min Kam whose telephone number is (571) 272-0948. The examiner can normally be reached on 8.00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathleen Kerr can be reached at 571-272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chih-Min Kam, Ph. D.
Patent Examiner



**CHIH-MIN KAM
PATENT EXAMINER**

CMK

December 12, 2005